

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

WELLOGIX TECHNOLOGY LICENSING
LLC.,

Plaintiff,

v.

AUTOMATIC DATA PROCESSING, INC.
and ENCANA OIL & GAS (USA) INC.

Defendants.

**COMPLAINT FOR PATENT
INFRINGEMENT**

CASE NO. 6:12-cv-896

Judge:

Jury Trial Demanded

Plaintiff Wellogix Technology Licensing LLC. (“Wellogix”), by counsel, alleges as follows:

THE PARTIES

1. Wellogix is a limited liability corporation organized under the laws of Texas, with a principal place of business at 440 Louisiana St., Suite 2220, Houston, Texas 77002-1638.

2. Defendant Automatic Data Processing, Inc. (“ADP”) is a corporation organized under the laws of Delaware, having its principal place of business in Roseland, New Jersey, and having offices in Houston, Dallas, and San Antonio, Texas. ADP has appointed its agent for service of process in Texas as follows: National Registered Agents, Inc., 16055 Space Center, Suite 235, Houston, Texas 77062.

3. Defendant EnCana Oil & Gas (USA), Inc. (“EnCana”) is a corporation organized under the laws of Delaware, having its principal place of business in Denver, Colorado and having offices in Plano, Bridgeport, Fairfield, and Ridge, Texas. EnCana has appointed its agent for service of process in Texas as follows: CT Corporation Systems, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201-4234.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*

5. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. ADP is subject to this Court's personal jurisdiction because it does and has done substantial business in Texas, including: (i) making, using, and/or selling infringing complex project management software and systems for procurement and invoicing operations, including without limitation ADP's Procure to Pay Solution, ADP's Invoice-Enterprise Edition and ADP's Invoice-Professional Edition (collectively "Procure to Pay Solution"); and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods used or consumed by, and services provided to individuals in the state of Texas and in this judicial district. In addition, ADP has designated an agent for service of process in Texas. Accordingly, ADP has established minimum contacts with the forum such that the exercise of jurisdiction over it would not offend traditional notions of fair play and substantial justice.

7. EnCana is subject to this Court's personal jurisdiction because it does and has done substantial business in Texas, including: (i) using infringing complex project management software and systems for procurement and invoicing operations, including without limitation ADP's Procure to Pay Solution and/or Digital Oilfield's DO2 software; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, and/or deriving substantial revenue from goods used or consumed by, and services provided to individuals in the state of Texas and in this judicial district. Accordingly, EnCana has established minimum contacts with the forum such that the exercise of jurisdiction over it would not offend traditional notions of fair

play and substantial justice.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and § 1400.

BACKGROUND FACTS

9. Wellogix is a wholly-owned subsidiary of Wellogix, Inc., a company that formerly operated in Houston, Texas. When operating, Wellogix, Inc. developed a software suite and management system for assisting large oil and gas enterprises to improve their business processes relating to planning, procurement, and payment for complex oil field services. The Wellogix, Inc. management system delivered a complete end-to-end solution that enabled engineers to collaboratively plan and specify complex services with their service providers, to automatically reconcile field-tickets and invoices, and to enforce compliance with preferred service providers' contracts.

10. In the oil and gas industry projects are often negotiated and entered into on a time and materials basis. Proposals from service providers generally indicate the time involved in providing necessary services and the quantity of materials they believe will be necessary to complete a given task for a given project. But, pricing is often based upon a per unit basis of time and materials. Thus, the actual costs and fees incurred for a project may be higher or lower than the bid or contract price. For example, when in the field, a drilling team may encounter an unforeseen operational problem that increases the time necessary to reach a desired well level, thereby increasing the cost of the project. In time and materials projects such as these, the operator typically continues to manage the project through its completion despite time and cost overruns. Use of the Wellogix, Inc. management system allowed for real-time management of these events, real-time payment approvals, and real-time discrepancy evaluation – something that greatly improves project management efficiency and yields major cost savings.

11. The Wellogix, Inc. management system provided a system and process for tracking, matching, comparing, reconciling, and/or approving for payment field tickets for goods and services rendered at an oil and gas project site. Managing the field ticket approval process for a large oil and gas operator is an incredibly complicated process that, prior to the advent of the Wellogix management system, cost approximately \$75 per managed transaction. Using the Wellogix, Inc. management system, the cost of processing the approval for a given transaction was reduced to less than \$12 per managed transaction. Electronic reconciliation and payment approval is critical to the Wellogix, Inc. software suite and all other similar systems.

12. At its peak, Wellogix, Inc. maintained contracts with large oil and gas companies operating in east Texas.

13. Wellogix, Inc. filed several patent applications directed to the features and processes implemented by its software products. These activities resulted in the issuance of U.S. Patent No. 8,321,313 (“the ‘313 patent”).

14. In 2000, a company by the name of Digital Oilfield was formed. Thereafter, it released a suite of software products similar to the Wellogix, Inc. management system, which incorporated the inventions of the Patent-In-Suit. In 2008, Digital Oilfield changed its name to DO2 Technologies, Inc. and rebranded its procurement and invoicing software suite as “DO2.”

15. In January 2010, ADP acquired DO2 Technologies, Inc., along with the DO2 software. Since that time, ADP has continued to sell the DO2 product to its customers as ADP Procure to Pay Solution.

16. EnCana uses and ADP makes, uses, and sells, and induces customers to use the DO2 product or ADP’s Procure to Pay Solution.

THE PATENT-IN-SUIT

17. On November 27, 2012 the ‘313 patent entitled “Method and Process for

Providing Relevant Data, Comparing Proposal Alternatives, and Reconciling Proposals, Invoices, and Purchase Orders with Actual Costs in a Workflow Process” issued to Jeffrey A. Livesay, Robert Bodnar, and Thomas A. Lopus. (A copy of the ‘313 patent is attached hereto as Exhibit A.) The entire, right, title and interest to the ‘313 patent has been assigned to Wellogix. Wellogix is the owner and possessor of all rights pertaining to the ‘313 patent.

18. The claims of the ‘313 patent generally relate to a computer program that collects information relating to the procurement of goods or services, including, for example, estimated data, actual data, and invoice data, and using two or more of the pieces of data to determine whether a discrepancy exists between the estimated data, the actual data, and the final invoiced amount, and to using that information to reconcile and approve or disapprove invoiced amounts before paying an invoice for goods or services.

**FIRST CAUSE OF ACTION
(DIRECT INFRINGEMENT OF THE ‘313 PATENT)
Against All Defendants**

19. Wellogix realleges and incorporates by reference the allegations contained in paragraphs 1 - 18.

20. Wellogix is the sole holder of the entire right, title and interest in the ‘313 Patent.

21. ADP is directly infringing one or more of the claims of the ‘313 patent by unlawfully making, using, offering to sell, selling and/or importing into the United States infringing software products, including without limitation DO2 and/or ADP’s Procure to Pay Solution, within the state of Texas, this district, and elsewhere.

22. The infringing DO2 and/or ADP Procure to Pay Solution includes the ability to collect estimated data, actual data, and invoice data, and to use two or more of these pieces of data to reconcile and approve invoiced amounts before an invoice for goods or services is paid.

23. ADP's marketing materials tout the Procure to Pay Solution's reconciliation functionality, including its ability to infringe the claims of the '313 patent by performing matching of information including estimated data, actual data, and invoiced amounts.

24. ADP's training materials encourage users of the Procure to Pay Solution to use the infringing reconciliation functionality.

25. EnCana is directly infringing one or more claims of the '313 patent by unlawfully using in the United States infringing software products, including without limitation DO2 and/or ADP's Procure to Pay solution, within the state of Texas, this district, and elsewhere, including by using the infringing matching and reconciliation functionality included in the Procure to Pay Solution.

26. As a result of infringement of the '313 patent by ADP and EnCana, Wellogix has suffered irreparable harm for which Wellogix has no adequate remedy at law. Unless enjoined by this Court, this infringement will continue and will result in further irreparable harm to Wellogix.

27. Wellogix is entitled to recover damages from ADP and EnCana in an amount not less than a reasonable royalty that is adequate to compensate for the infringement.

**SECOND CAUSE OF ACTION
(INDIRECT INFRINGEMENT OF THE '313 PATENT)
Against ADP**

28. Wellogix realleges and incorporates by reference the allegations contained in paragraphs 1 - 27.

29. Wellogix is the sole holder of the entire right, title and interest in the '313 Patent.

30. After being notified on October 19, 2012, of the claims of the '313 patent, ADP has knowingly and intentionally contributed to the infringement, and continues to contribute to

the infringement, of one or more of the claims of the '313 patent by unlawfully selling or offering to sell within the state of Texas, this district, and elsewhere software products, including without limitation DO2 and/or ADP's Procure to Pay Solution, for use in practicing a patented method, knowing the same to be especially made or especially adapted for use in an infringement of such patent. These software products constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use.

31. ADP has knowingly and intentionally induced infringement, and continues to induce infringement, of one or more of the claims of the '313 patent by unlawfully selling or offering to sell within the state of Texas, this district, and elsewhere software products, including without limitation DO2 and/or ADP's Procure to Pay Solution, with specific intent that these software products be used by ADP customers to infringe the '313 patent. ADP had actual knowledge of the claims of the '313 patent after being notified by letter on October 19, 2012, knew or should have known that its sale of these software products would induce infringement of the '313 patent.

32. As a result of ADP's contributory and induced infringement of the '313 patent, Wellogix has suffered irreparable harm for which Wellogix has no adequate remedy at law. Unless enjoined by this Court, this infringement will continue and will result in further irreparable harm to Wellogix.

33. Wellogix is entitled to recover damages from ADP and EnCana in an amount not less than a reasonable royalty that is adequate to compensate for the infringement.

DEMAND FOR RELIEF

WHEREFORE, Wellogix respectfully requests the following relief:

- a) That this Court adjudge and decree that Defendants have been and are currently

infringing the '313 patent;

b) That this Court enter an order that ADP and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be permanently enjoined from infringing the '313 patent;

c) That this Court enter an order that ADP and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with it, be preliminarily and permanently enjoined from inducing others to infringe and committing acts of contributory infringement with respect to the '313 patent;

d) That this Court enter an order that EnCana and its officers, agents, servants, employees, successors and assigns, and those persons acting in concert with them, be permanently enjoined from infringing the '313 patent;

e) That this Court award damages to Wellogix to compensate it for each of the unlawful actions set forth in Wellogix' complaint;

f) That this Court award pre-judgment and post-judgment interest on such damages to Wellogix and order an accounting of damages that accrue between the close of fact discovery and the date a final judgment is entered in this litigation;

g) That this Court determine that this patent infringement case is exceptional and award Wellogix its costs and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285; and

h) That this Court award such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Wellogix respectfully requests a trial by jury on all issues triable thereby.

Dated: November 27, 2012

COOLEY LLP

/s/ Orion Armon

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DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff Wellogix Technology
Licensing, LLC hereby demands a trial by jury.

Dated: November 27, 2012

COOLEY LLP

/s/ Orion Armon

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